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LETTER DATED 17 MARCH 1993 FROM THE PERMANENT REPRESENTATIVE OF SOUTH AFRICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to attach the text of a letter from the Minister of Foreign Affairs, Mr. R. F. Botha, concerning the situation in Angola. I should be grateful if the letter could be circulated as a document of the Security Council.

(Signed) V. R. W. STEWARD
Ambassador
Permanent Representative

Annex

Letter dated 16 March 1993 from the Minister of Foreign Affairs of South Africa addressed to the Secretary-General

In view of the deteriorating situation in Angola and renewed allegations by the Government of the Republic of Angola regarding continued logistical support for UNITA from South Africa, I deem it necessary to once again place on record the South African Government's position in this regard.

I would like to state categorically that the South African Government does not support UNITA militarily or in any other way. The South African Government also does not support any party which opts for a military solution. It will also not support any party which attempts to obtain advantages inconsistent with the democratic process. In fact the position of the South African Government in this regard has been amply expounded in previous communications to you, which have been widely published also as documents of the Security Council.

I wish to stress that South Africa's interests would be ill-served by conflict, destruction and instability in the southern African region: consequently South Africa's interest coincide with the interests of the people of Angola in a negotiated peaceful future. It is difficult to conceive what strategic or other South African interest could be served by becoming embroiled in a conflict which is not only detrimental to bilateral relations but also to the region and the continent as a whole.

In the past, when the world was a different place, a number of other States, including the United States of America and South Africa, supported Mr. Savimbi with the overall objective of enabling him to participate in a democratic process in Angola, which would establish an elected Government and bring to an end years of internal strife. That objective was achieved, although subsequently vitiated, when elections were held in Angola at the end of September 1992 in terms of the Bicesse Accords of 31 May 1991. The considerations of earlier years obviously no longer have relevance.

The South African Government, in its contacts with both President Eduardo dos Santos and Mr. Jonas Savimbi and in its public pronouncements has consistently and strongly advocated the following:

- The obligation of the parties to honour the terms of the Bicesse Accords;

- The obligation of the parties to accept the results of the September 1992 election which were declared "generally free and fair" by the Secretary-General's Special Representative in Angola and which was formally accepted by the South African Government;

- The need for the leaders of the two main parties in Angola to enter into dialogue to solve the impasse;

- The total rejection of force as a way of achieving political ends in Angola; and,

- Support for the Security Council and Secretary-General of the United Nations in their efforts to salvage the peace and support for a continued and strong United Nations presence in Angola.

The South African and Angolan Governments have, until recently, been steadily strengthening mutually beneficial relations and had exchanged Representative Offices in each other's capitals. Agreements, subsequently interrupted by the resumption of hostilities, had been reached on cooperation in a wide range of fields such as mine-lifting, manpower training centres and medical training and assistance. The South African Government had every hope of continuing and expanding this promising relationship. The South African Government has also consistently advocated closer economic ties between South Africa and Angola. South Africa's interest lies in promoting peace and economic development, not only in Angola but in the whole of the subregion.

The South African Government has initiated a number of concrete and tangible steps to ensure that South Africa does not become embroiled in the tragic conflict in Angola, which I would like to enumerate hereunder:

- The Minister of Defence issued a statement on 26 February 1993 pointing out that in terms of existing legislation, it was a punishable offence for members of the South African Defence Force or the Reserve to render service as mercenaries or to recruit people to render service as mercenaries. In view of reports that a number of South Africans had already left for Angola, the South African Police are currently investigating possible transgressions of the applicable legislation (appendix I).

- I also issued a statement in this regard on 5 March 1993 warning South Africans who are members of the South African Defence Force or the Reserve against recruitment as mercenaries for service in neighbouring countries. I stressed the fact that this was an illegal act and that this was being done at their own risk (appendix II).

- The Minister of Defence issued a statement on 2 March 1993 rejecting allegations that South Africa was supplying arms to UNITA. He further pointed out that the Armaments Development and Production Act determined that no armaments may be exported from South Africa without a marketing and export permit, issued by the Armaments Corporation of South Africa (Armscor). He added that the Government would prosecute any transgressors (appendix III).

- The Civil Aviation authorities issued a renewed directive to all private air operators on the question of unauthorized flights beyond South Africa's boundaries on 26 February 1993 (appendix IV).

- The State President, Mr. F. W. de Klerk wrote to President Eduardo dos Santos on 1 March 1993 in response to certain alleged activities of a Namibian registered company, Namibian Commercial Aviation (NCA), in support of UNITA (appendix V).

- Due to the above-mentioned measures, the Department of Transport announced on 4 March 1993 that legal action had already been

instituted against an offender violating the prescribed civil aviation procedures (appendix VI).

- on 5 March 1993, I requested the relevant government departments to take additional steps to prevent unauthorized private flights to neighbouring countries.

- The South African authorities have also notified several private air operators in South Africa of the implications of unauthorized flights beyond South Africa's borders.

The South African Government shares the concern of the United Nations at the failure of recent efforts to arrange peace talks between the Angolan Government and UNITA in Addis Ababa. We are disappointed at the failure of UNITA, although it may have had certain security concerns, to attend the peace talks particularly in view of the elaborate and accommodating measures taken by Mrs. Margaret Anstee, the United Nations Special Representative for Angola, to enable the UNITA delegation to travel to Addis Ababa.

It remains the South African Government's firm belief that the only way ahead in Angola is the one proposed by the United Nations Security Council, amongst others in resolution 811 (1993) adopted by the Security Council on 11 March 1993, which provides for dialogue between the two parties under the auspices of the United Nations. The Bicesse Accords remain the only meaningful framework within which peace can be restored to Angola. The Bicesse Accords should be reactivated as a matter of urgency with a view to their full implementation. We believe that the dialogue that was begun in Addis Ababa in late January 1993 deserves continued support from all parties and we urge both parties to demonstrate their commitment to peace by resuming substantive talks as a matter of urgency. Decisive action by the international community is now required to get the parties back to the negotiating table.

As mentioned to you before, I believe that the presence of a large contingent of United Nations peace-keeping forces in Angola, is essential for the implementation of a lasting cease-fire as well as for the success of the peace process as a whole. I would also like to state that we have full confidence in Mrs. Margaret Anstee and the role she has played in the search for a peaceful solution in Angola.

The suffering of the innocent civilian population in Angola constitutes a major tragedy. The ongoing destruction of the economic infrastructure in Angola is senseless and counter-productive. The South African Government is therefore also concerned about threats made by UNITA regarding further destruction of the economic infrastructure and appeals to UNITA to refrain from any further such action in the interest of the country and its people.

The South African Government remains willing to assist the international community, including the United Nations and the observers to the Peace Accords, to resolve the crisis in Angola. These efforts will, however, require decisive

leadership and statesmanship by both parties. The South African Government urges both parties to stop the bloodshed that has tragically claimed thousands of lives over the past several months and to commit themselves anew to dialogue and national reconciliation.

(Signed) R. F. BOTHA

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Appendix I

Statement by the Minister of Defence, Mr. Gene Louw, on 26 February 1993

Service as mercenaries

As a result of allegations that South African citizens are recruited by other countries for service as mercenaries, I would like to point out that it is a punishable offence for members of the South African Defence Force or the Reserve to render service as mercenaries or to recruit people to render service as mercenaries.

They are apparently recruited under pretexts but the obvious aim is to fight as mercenaries.

In terms of Section 121 A of the Defence Act, Act 44 of 1957, a member of the South African Defence Force, the Reserve or the auxiliary or voluntary nursing service may not "bind himself to serve or render service as a mercenary".

This applies to all members of the Permanent Force, Citizen Force, Commandos, including National Servicemen, the Permanent Force Reserve, the Active Citizen Force Reserve and the National Reserve and includes all members between the ages of 17 and 65 years. A person convicted of a contravention of this subsection is liable to a fine not exceeding R5,000 or imprisonment not exceeding two years, or both.

In addition anybody who tries to influence a member of the Defence Force "to bind himself to serve or to render service as a mercenary', shall, if convicted of a contravention of this subsection, be liable to a fine not exceeding R10,000 or imprisonment not exceeding five years, or both.

The South African Government supports all international peace efforts as well as such efforts in the southern African region.

As an example the State President as well as the Minister of Foreign Affairs expressed on several occasions recently - inter alia in letters to President Eduardo dos Santos of Angola, Mr. Jonas Savimbi of UNITA, and Mr. Boutros Boutros-Ghali, Secretary-General of the United Nations - the South African Government's full support for the peace process in Angola.

The South African Government therefore supports the current United Nations initiative which has the objective of getting the parties to the negotiation table without delay in order to put an end to the military violence in that country as soon as possible.

In the interests of South Africa and of peace and stability in southern Africa, the Government will not tolerate a situation where Defence Force members, as described above, are recruited as mercenaries. Strict action will be taken against anyone who transgresses the relevant clauses of the Act.

Appendix II

Press release

The Minister of Foreign Affairs, Mr. Pik Botha, today (5 March 1993) announced that despite the Minister of Defence, Mr. Gene Louw's earlier statement warning persons not to join up as mercenaries in neighbouring countries it seems like some individuals are indeed doing so.

It needs to be stressed that those who are doing it are doing it illegally and at their own risk. Should they get caught South Africa's hands will be tied as we are not in a position to obtain Consular access or render other assistance to them.

Appendix III

Statement by the Minister of Defence, Mr. Gene Louw, on 2 March 1993

Export of weapons

From time to time rumours and reports circulate that instances in South Africa supply armaments to instances and countries in contradiction with existing legislation and regulations. Recently it has been alleged that South Africa supplies armaments to UNITA.

I reject these allegations.

The Armaments Development and Production Act determines that no armaments may be exported from South Africa without a marketing and export permit, issued by the Armaments Corporation of South Africa (Armscor).

Anyone who exports armaments without the required permit in contradiction with the Act, is guilty of an offence and upon being found guilty, is punishable with a fine not exceeding R10,000, or imprisonment not exceeding 10 years, or both.

As the Minister responsible for the administration of this Act and regulations, I would like to point out that the Government will prosecute any transgressors.

Appendix IV

Advisory to pilots

Conveyance of armaments on board civil registered aircraft

The Department of Transport brings to the attention of pilots that in terms of the Convention on International Civil Aviation drawn up in Chicago during December 1944 and to which South Africa was a signatory and further adopted by the Aviation Amendment Act 1947 (Act No. 42 of 1947) and including any amendments and/or additions thereto - it is an offence to convey any armaments on board a civil aircraft without the written permission of the Minister of Transport or the Commissioner for Civil Aviation as described by Government Notice No. R901 of 4 May 1984. Pilots contravening the above law will be dealt with to the full letter of the law.

Appendix V

Letter dated 1 March 1993 from the President of South Africa addressed to the President of Angola

Thank you for your letter of 29 January 1993 in which you expressed concern about certain alleged activities of a Namibian registered company, Namibian Commercial Aviation (NCA).

In view of the seriousness of these allegations, our mutual desire for peace in Angola, as well as our desire to maintain friendly relations, I had your concerns investigated. It transpires that NCA had been in existence for nearly 15 years prior to Namibia's independence, and is a well-established commercial aviation company operating independently in the Republic of Namibia. It further emerged that none of the men listed in your letter is employed by the South African Air Force.

In view of the fact that NCA is a Namibian registered company, I would respectfully suggest that you pursue your inquiries directly with the Namibian Government. Various allegations regarding the activities of the company have to my knowledge been reported upon in the Namibian media in recent months.

According to these reports, a number of the crew members listed in your letter have on previous occasions been arrested by the Angolan authorities, and subsequently released after proper investigation. It is my understanding that flights were undertaken by NCA into Angola for humanitarian reasons, airlifting food and medical supplies to areas in need in southern Angola, many of which flights were chartered by international food relief organizations. In addition, it is my understanding that such commercial flights were also chartered by media representatives and businessmen, wishing to engage in bona fide activities in Angola.

I would like to reiterate that the South African Government is in no way engaged in activities supporting UNITA, and that South Africa has no control over any flights from countries neighbouring Angola, such as Namibia, if flights originating from these countries have as final destination locations in Angola. As for privately chartered commercial flights originating in South Africa and flying to neighbouring countries, I can assure you that the South African civil aviation authorities scrupulously adhere to internationally prescribed procedures, as well as South African legislation, in insisting that all flights leaving South African airspace file proper flight plans. In the event of flights not adhering to these procedures, the necessary legal steps will be taken against them.

You will understand that when such aircraft leave South African airspace, no further control can be exerted upon them. In addition, any attempts by Government without proper cause to inhibit or frustrate private commercial concerns from engaging in their legitimate day-to-day business in southern Africa, including commercial transactions with Angola, run the risk of legal proceedings being instituted against the South African Government.

The South African Government will not support any party which opts for a military solution in your country, nor will it support any party which attempts to obtain advantages which are inconsistent with the democratic process.

It is also my opinion that the only way ahead in Angola at this juncture, is for the two parties to engage in dialogue, under the auspices of the United Nations, and that the Bicesse Accords be urgently reactivated with a view to their full implementation.

(Signed) F. W. De KLERK

Appendix VI

Media release by Department of Civil Aviation

Monitoring of civilian flights within the Republic of South Africa and over border flights

With reference to recent press reports implying that flights within the RSA and across its borders can take place in an uncontrolled manner, the Department of Transport would like to inform the public of the regulatory requirements pertaining to all pilots.

A flight plan shall be filed in respect of:

(a) All flights to be conducted in controlled or advisory airspace: provided that this requirement shall not apply in respect of a local flight crossing an airway or advisory route at right angles or a "Visual Flight Rules" flight entering or departing from an aerodrome traffic zone or control zone, from or to an unmanned aerodrome, and where no other controlled or advisory airspace will be entered during the flight;

(b) An international flight;

(c) All flights in the public transport operation or public transport of cargo operation categories; and

(d) A flight for which alerting action is required.

These flight plans have to be filed not later than 30 minutes prior to departure with an air traffic control centre. In respect of over-border flights, any State may define additional requirements such as an application to land or overfly its territory up to seven days prior to departure.

It is also a requirement in terms of both the Domestic and the International Air Services Acts that any proposed air service to be carried out for reward may only take place once a licence has been issued by the appropriate body.

It is therefore not true to state that there will be no record of movements at all although some information may only be obtained after the fact.

It is of course true that the Civil Aviation Authority is not able to prevent people from breaking the law. However, when this happens incidents are investigated and where appropriate, prosecutions are made. In addition, there are formal communication channels to pilots, for example the Notice to Airmen (Notam) system whereby on 27 February 1993 pilots were reminded of regulations pertaining to the conveyance of armaments on board civilian aircraft. The industry is to a large extent also self-regulating in the sence that unauthorized operations are reported when they occur.

The Department therefore wishes to disagree in the strongest possible terms with the sentiments expressed in recent newspaper reports on this subject.